

Tribal Mitigation Planning Policy Update Framing Paper and Key Concepts

Background

Hazard mitigation reduces losses caused by natural hazards. State, local, tribal,¹ and territorial (SLTT) governments create mitigation plans to identify risks and make long-term strategies to reduce losses to people and property from natural hazard events. Tribal Nations must have a FEMA-approved mitigation plan in order to receive funding following a Presidentially Declared Disaster and to apply for and/or receive certain types of non-emergency funding. This includes funding for [Public Assistance permanent work \(Categories C-G\)](#), [Fire Management Assistance grants](#), [Hazard Mitigation Assistance](#) (HMA) grants for mitigation projects, and the [Safeguarding Tomorrow Revolving Loan Fund \(STRLF\)](#).

FEMA's [Tribal Mitigation Plan Review Guide](#) was last updated in 2017. This guide is also known as the Tribal Mitigation Planning Policy. It is FEMA's official policy based on the Code of Federal Regulations (44 CFR Part 201). These are the rules for creating and updating tribal mitigation plans. The policy helps FEMA officials review tribal mitigation plans in a fair and consistent way. It also informs tribal governments about what the plans must include to receive FEMA approval.

FEMA strives to enhance a nation-to-nation partnership with tribal governments that recognizes tribal sovereignty and self-governance. It is reflected in the [2022-2026 FEMA National Tribal Strategy](#). It is also consistent with the [FEMA's Tribal Policy \(Rev. 2\)](#) (FEMA Policy #305-111-1). FEMA will gather feedback and collaborate with Tribal Nations on the mitigation policy update as described in [the FEMA Tribal Consultation Policy](#) (FEMA Policy #101-002-02).

Purpose

FEMA will use this document as we reach out and consult with tribal governments and associations. This document will help guide FEMA as it discusses the tribal policy update with tribal governments. We will collect and analyze this feedback to inform the policy update.

¹ As defined in 44 CFR § 201.2, Indian *tribal government* means any Federally recognized governing body of an Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

Key Concepts and Discussion Questions

Key Concept 1: Updating the policy to align with recent changes to FEMA's mitigation programs and strategies.

The [tribal mitigation planning policy](#) (Tribal Mitigation Plan Review Guide) was last updated in 2017. Since then, Congress has authorized new grant programs. These include the Building Resilient Infrastructure and Communities (BRIC) program and Safeguarding Tomorrow Revolving Loan Program. Congress has also updated strategies and plans. These include the FEMA Strategic Plan and the FEMA National Tribal Strategy. One goal of the planning policy update is to refresh the policy. This way, it aligns with updated programs, plans, and policies.

QUESTIONS FOR TRIBAL OFFICIALS

Question 1: What suggestions or thoughts do you have to keep the policy up to date? Are there other processes that FEMA should consider related to keeping the policy current?

Question 2: How has your mitigation plan informed your decision to request a Presidential Disaster Declaration and/or participate in or apply for FEMA assistance programs, including Public Assistance?

Key Concept 2: Reviewing the Guiding Principles for Tribal Mitigation Planning.

For the 2017 policy update, FEMA proposed and introduced a set of Guiding Principles. These Principles were intended to strengthen the tribal plan development process and guide how FEMA and the Federal government relate to Indian tribal governments in this and other matters. The 2017 Guide includes six Guiding Principles in the introductory section:

- **Nation-to-nation.** FEMA works to build a strong partnership with tribal governments. We strive to help them prepare for hazards, reduce their hazard vulnerabilities, respond quickly when disasters strike, and recover from them.
- **Foster cooperation and understanding.** FEMA will communicate plan reviews in a helpful and positive manner.
- **Focus on mitigation strategy.** Plan reviews will stress actions and how the hazard mitigation strategy is carried out.
- **Consider intent while reviewing the plan.** Plan reviews will focus on whether the mitigation plan meets the intent of the law and regulation.
- **Process is as important as the plan itself.** FEMA will accept the planning process as the tribal government defines it.
- **This is the tribe's plan.** Plan reviews will recognize the effort and interest of each tribal government that develops a plan.

Question 3: What suggestions do you have to improve these Guiding Principles? Would you add to them or reframe them?

Key Concept 3: Addressing the unique planning considerations for Tribal Nations across the country.

While there are some similarities between tribal, local, and state mitigation planning, Tribal Nations may face unique challenges and different situations as compared to state local, and territorial governments. Key Concept 3 addresses how those considerations affect the review of each element in a tribal hazard mitigation plan. This Key Concept also includes topics such as climate change, climate adaptation, building codes, and equity.

The key elements of a standard tribal mitigation plan include:

- Planning Process (Element A)
- Hazard Identification and Risk Assessment (Element B - including climate change considerations)
- Mitigation Strategy (Element C)
- Plan Updates (Element D)
- Plan adoption (Element E)

These elements rely on a planning process that brings together tribal government leaders, members, subject matter experts, partners, and the public. These people will add value to the plan.

The plan includes Hazard Identification and Risk Assessment elements. These include a history of previous hazard events and the likelihood of hazards in the future. The Risk Assessment should look at effects that climate change and changing weather will have on hazards. This may include more or less rain and flooding in the future.

The Mitigation Strategy is a key focus of the plan. It is sometimes called the “heart” of the plan. The strategy is based on the risks and vulnerabilities that were found in the Risk Assessment. The strategy explains the direction and steps to reduce risk over time.

QUESTIONS FOR TRIBAL OFFICIALS

Question 4: If you have experience with the current tribal mitigation planning policy, what are some of the challenges you have faced with the Planning Process? What challenges have you faced with the Hazard Identification and Risk Assessment process (including addressing climate change)? What challenges have you faced with the Mitigation Strategy?

Question 5: Do you see any ways to improve the mitigation planning experience? If so, what are they?

Key Concept 4: Clarifying the Enhanced Tribal Mitigation Plan requirements and process.

Section 3 of the 2017 Guide says that an enhanced tribal mitigation plan documents a sustained and proven commitment to hazard mitigation. The enhanced status acknowledges the coordinated effort a tribal government takes to reduce losses, protect life and property, and create safer communities. If a tribal government has an approved enhanced plan, it is eligible for more Hazard Mitigation Grant Program funding. These funds can be up to 20% of the estimated eligible Stafford Act assistance.

The mitigation planning regulations refer tribal governments to the requirements for states. These are in the State Mitigation Plan criteria at [44 CFR Section 201.5](#). The 2010 Tribal Multi-Hazard Mitigation Planning Guidance includes the reference to 44 CFR Section 201.5 in a callout box. It does not include details on the enhanced requirements. The 2017 Tribal Mitigation Plan Review Guide includes the requirements for enhanced plans. It also includes language that is more relevant to tribal governments as it relates to some of the enhanced elements. No tribal governments have an approved enhanced mitigation plan yet.

The enhanced tribal mitigation planning elements include:

- Meet Standard Mitigation Plan Requirements (Element F)
- Integrated Planning (Element G)
- Tribal Mitigation Capabilities (Element H)
- HMA Grants Management Performance (Element I)

Enhanced plans must meet the requirements for a standard tribal mitigation plan. They must also show that the tribal plan is integrated with other tribal and/or regional plans and programs. They must integrate with plans or programs across multiple sectors (e.g., housing, emergency management). Enhanced plans must also show a commitment to a strong mitigation program. That could include, for instance, training and capability building, tribal mitigation programs and partnerships, comprehensive and recovery planning and current building code adoption and enforcement.

Enhanced plans must show that the tribe is making full use of FEMA mitigation funding. That includes HMA and Public Assistance Categories C-G. These plans show that the tribe is using programs to reduce natural disaster risks through mitigation.

Finally, enhanced plans must show that the tribe can manage FEMA HMA grants. This includes meeting project and grant-related application deadlines. It also includes submitting accurate data in the application, such as benefit cost analyses. Enhanced plans must show that the tribe can submit timely progress reports and complete projects on time.

The 2017 policy also includes steps and guidance to review and approve plans. For instance, it includes the timeline and plan review process for enhanced plans.

QUESTIONS FOR TRIBAL OFFICIALS

Question 6: What are the challenges for tribal governments to prepare enhanced mitigation plans? These could be challenges you have faced or ones you think you might. What are some potential ways to overcome them?

Other Discussion Questions and Information

Question 7: What other thoughts do you have about the policy update?

Question 8: What other thoughts do you have about hazard mitigation planning and implementing the plan?

All consultation materials are posted on www.fema.gov/about/tribes/consultations.

FEMA offers guidance, training, technical assistance, and grants to help Indian tribal governments (tribal governments) develop approvable hazard mitigation plans. Please see: <https://www.fema.gov/emergency-managers/risk-management/hazard-mitigation-planning/create-hazard-plan>.